In the High Court of Judicature at Madras

Dated: 26/09/2003

Coram

The Honourable Mr.Justice A.K.RAJAN

Writ Petition No.2650 of 1999

S.Karunanidhi ..... Petitioner

-Vs-

Indian Bank
rep. by its Chairman and
Managing Director
Central Office
No.31, Rajaji Salai
Chennai.1. ..... Respondent

Prayer: Petition filed under Article 226 of the Constitution of India for the issue of a writ of Mandamus as stated therein.

For petitioner : Mr.Elango

For respondent : Mrs.Rita Chandrasekaran
for M/s. Aiyar & Dolia

:O R D E R

The petitioner filed the above writ petition seeking to issue a writ of Mandamus to direct the respondent to consider the case of the petitioner and issue the order for promotion to Officer's Scale II with retrospective effect from the date of implementation of the weightage and credit given to C.A./I.C.W.A. On which his juniors were promoted modifying the Rules in this regard.

2.The brief facts that are necessary for the disposal of the writ petition is as follows:

The petitioner was recruited as a Clerk in the Indian Bank in the year 1978. In the year 1983, after getting due permission from the authorities he pursued his higher studies and obtained Law degree in the year 1986. Therefore, he became eligible for promotion in the year 1 987. Since in that year direct recruitment was made for Law Officers and service weightages were also given even to the persons employed in the Government. Therefore, the petitioner contends that considering the fact that he obtained Law Degree in the year 1987 itself, had he been considered for promotion in that year, he would have been promoted as Scale I Officer in the bank. Thereafter by efflux of time he would have been promoted to Scale II. Therefore, the present writ petition has been filed seeking for a Mandamus

directing the respondent to promote him as Scale II Officer with retrospective effect from the date of implementation of weightage and credit given to C.A./I.C. W.A. from the date on which his juniors were promoted modifying the rules in this regard.

3. It is also stated in the affidavit that those persons were employed in the clerical cadre with additional qualification in C.A./ I.C.W.A. alone are considered for direct promotion to Scale I Officers while B.L. is not considered for promotion to Scale I Officers Cadre. Therefore, it violates the equality granted in the Constitution of India.

4. Counter affidavit has been filed by the respondent to the effect that the promotion of clerical staff to the Scale I Officer is based on promotion policy settlement entered into between the Bank and the Federation of the Indian Bank Employees Unions recognised by the respondent Bank. As per the promotion policy entered into with the recognised employees' union on 07.10.1993 the clerks, who after joining the Bank, got qualified in CA having completed two years of service as on the relevant date and those clerks who qualified in ICWAI having completed 3 years of service as on the relevant date would be promoted to JMG Scale I officer cadre with certain conditions. Further, it is also stated that to be promoted as Scale I Officer, the other qualifications required are double graduate with three years experience as Clerk; only then he will be entitled to the post of Scale I Officer promotion from 1993 onwards. Based upon this qualification, he cannot be promoted for Scale II Officer. Further, it is stated that 35% of the declared vacancies in a calender year in the Scale I Officer cadre shall be filled up by promotion from clerical cadre staff on merit basis. The promotion is also given subject to certain rules. According to that rule, a doubt graduate with three years experience can be promoted only when the person passed the tests conducted for the promotion. But the petitioner has not appeared for the test. Further, a degree in CA/ICWA cannot be equated with B.L. Degree and, therefore, there is no merits in the contention of the petitioner and hence, the writ petition is liable to be dismissed.

5. Heard learned counsel for the parties.

6. Learned counsel appearing for the petitioner submitted that since the petitioner has passed B.L. in the year 1986, he should have been considered in the year 1987 for promotion. The fact that he was not considered for being promoted in that year is illegal.

7. Learned counsel for the respondent submitted that with respect to promotion unless the person satisfies all the requisite qualification he will not be entitled for promotion. Only when a person is promoted to Scale I he is eligible for promotion to Scale II. The petitioner has not written the test for qualifying himself for Scale I post.

8. The main contention of the petitioner is that the degree in CA or ICWA is considered as sufficient qualification for promotion. So also the degree in Law should be equated with that of CA and ICWA and since Law degree has not been equated with the C.A there is a discrimination. This argument of the learned counsel for the petitioner is not acceptable. It is for the institution to fix the qualification that is required, taking into account their necessities and the type of work they are discharging. Therefore, such classification cannot be said to be violative of Article 14 of the Constitution. It is a reasonable classification and hence, as such is valid. The petitioner has not qualified himself to be promoted as Scale I

Officer because he has not even appeared for promotional test, hence the petitioner is not entitled for promotion.

In the result, the petition is devoid of merit and the same is dismissed. No costs.

Index :Yes
Internet:Yes

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To
The Chairman and
Managing Director,
Indian Bank,
Central Office
No.31, Rajaji Salai
Chennai.1.